
Appeal Decision

Site visit made on 20 March 2025

by **R Lawrence BSc (Hons), PGDip (TP), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 June 2025

Appeal Ref: APP/Z3635/W/24/3353029

4 Sandhills Meadow, Shepperton, Surrey TW17 9HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Lees against the decision of Spelthorne Borough Council.
 - The application Ref is 24/00441/FUL.
 - The development proposed is the demolition of the existing bungalow and erection of a replacement bungalow with accommodation in the roof.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 21 May 2025.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing bungalow and erection of a replacement bungalow with accommodation in the roof at 4 Sandhills Meadow, Shepperton, Surrey TW17 9HY in accordance with the terms of the application 24/00441/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for a full award of costs was made by Mr and Mrs Lees against the decision of Spelthorne Borough Council. That application is the subject of a separate decision.

Preliminary Matters

3. It is noted that the emerging Spelthorne Local Plan has reached an advanced stage and the policies within it are therefore material considerations. However, there is no evidence before me as to the status of individual policies. Furthermore, I note that the Council is not seeking to rely on the emerging policies and in this regard has not concluded on any conflicts with them. Given these factors, my determination of this appeal is made against the current development plan.
4. There is a previous appeal decision, in relation to two linked dismissed appeals, relating to alternative schemes for a replacement dwelling¹ at the appeal site. This is a material consideration which I have had regard to in my decision.
5. A revised National Planning Policy Framework (the Framework) was published in December 2024. The main parties have had the opportunity to comment on the relevance of the revised Framework within any final comments. My attention has

¹ APP/Z3635/W/23/3319800 and APP/Z3635/W/23/3319801 dated 25 January 2024

been drawn to, amongst other things, changes to the Green Belt section. I have determined the appeal in light of the representations made and the revised Framework.

6. A biodiversity net gain de minimis calculation and plan was submitted in support of the appeal, and the Council was invited to comment. The submission clarifies whether an exemption applies without altering the proposal itself. I am therefore satisfied that considering this information does not result in procedural unfairness, and I have taken it into account accordingly.

Main Issue

7. The main issue is whether or not the proposal would constitute inappropriate development in the Green Belt, having regard to any relevant development plan policies and the Framework.

Reasons

8. Development within the Green Belt is inappropriate with the exception of the types of development listed in paragraphs 154 and 155 of the Framework. The appellants contend that the proposal would meet criteria (d) of paragraph 154, the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The Framework does not include a definition, or a figure, as to what constitutes materially larger, nor is there one within the relevant local plan policy, EN2 of the Spelthorne Core Strategy and Policies Development Plan Document 2009 (DPD).
9. Saved Policy GB1 of the Spelthorne Borough Local Plan 2001 'Saved' Policies and Proposals – March 2008 (LP), which is broadly consistent with the Framework, advises that development will not be permitted which would conflict with the purposes of the Green Belt and or where it would fail to maintain its openness.
10. Policy EN2 of the DPD, allows for replacement dwellings subject to a number of criteria, including, that they do not significantly change the scale of the original building.
11. The reference to the original building, is not entirely consistent with the Framework, which refers to a comparison with the building which it replaces. As such, for the purposes of this appeal, this slightly reduces the weight to be attached to the policy. In any event, the refusal reason and submitted evidence directs me to the sections of the Framework relating to the Green Belt.
12. The appeal site comprises a modest bungalow with a low profile and a frontage facing onto the River Thames. Road access is via Sandhills Meadow, a narrow cul-de-sac. Dwellings along the cul-de-sac, including the appeal site, form part of the locally defined Plotlands Area. The bungalow is in a poor state of repair and sits beneath the flood level. It has been previously extended to one side, following the granting and partial implementation of a Certificate of Lawful Proposed Development.
13. The proposal is for a replacement 3-bedroom dwelling with accommodation in the roof and decking adjacent to the river. The existing bungalow has been previously flooded, and in order to provide a flood resilient dwelling, the proposed dwelling is elevated above an open void which would lift the dwelling above the flood level. To further improve its flood resilience, the bedrooms would be provided at an upper

flood level contained within the roof space void. This would be a result of a pitched roof, which would also help to improve the aesthetic appearance of the dwelling.

14. Although one extension covered by the certificate of lawfulness has been completed, two others remain unbuilt. Given the partial implementation and the clear need for additional space to accommodate the appellants' family, there is a strong likelihood that the remaining extensions would proceed if this appeal is unsuccessful. While the Council has drawn my attention to the time that has passed since the side extension was constructed, given the pending decision on this appeal, this does not in my view mean that the remaining extensions are unlikely to be implemented.
15. This background, has led to very different approaches from both parties, including in respect of what constitutes the baseline for calculating the relative increases. The appellants contend, in line with the previous inspector's decision and legal advice², that the unimplemented extensions should be included within the baseline. This approach would not be entirely consistent with some established case law, in particular, the Athlone House case³ which sets out that the extent of physical built development is essentially a question of fact. Nonetheless, the unimplemented permissions are highly relevant to the background of this case, and as such, I have had regard to them in my assessment.
16. The additional floorspace created in the roof void and the placing of bedrooms at an upper level to improve flood resilience, results in a proposed floorspace of around 124sqm and provides an additional bedroom. This floorspace is not excessive for a 3-bedroom property. This increase equates to around 63% over the existing situation on the ground. However, this figure does not account for the permitted development extensions, which the appellant contends should be included within the baseline. Adopting this method, would result instead in a 26% increase, which would fall comfortably within the 30% guideline. This is an informal guideline which the Council has used as a tool for assessing increases within the Borough. Whilst not set out in policy, given its use by the Council and another inspector in relation to an appeal at Kantara, Pharohs Island⁴, I consider this to be an important consideration.
17. The void by its nature is a relatively open structure, which whilst it elevates the dwelling, it allows some feeling of views through and as such would not appear as an integral part of the habitable section of the building that would provide any floorspace. Taking into account its characteristics, together with the site circumstances with regard to flood risk, a case can be made that the void should not be included within the volume calculations. Accordingly, with this approach the proposal results in a volume increase of just over 55%. This increase is largely due to the introduction of a pitched roof which carries aesthetic benefits.
18. Similarly, the additional storey also results in an increase to the height of the building, amounting to about a 67% increase in comparison to the existing. However, again the height in this case is partly due to the elevated nature of the built form, in order to accommodate the open flood voids. The open nature of the voids below, would go some way to mitigate the effect of the increase. Accordingly,

² Advice provided to the appellants by Zack Simons of Landmark Chambers, dated 10 June 2024.

³ Athlone House Ltd v SSCLG [2015] EWHC 3524 (Admin)

⁴ Appeal Ref: APP/Z3635/W/22/3296881

the increase in the height of the building above the flood deck, in comparison with the height of the building, now amounts to about 33% which is not significant and would not appear out of place or unduly large.

19. While numerical comparisons help illustrate the increase in size, it is also necessary to consider the effect on the ground. The proposed building's height and volume would be broadly in line with neighbouring properties, particularly No. 5 and Sunnybank, both of which appear to have replaced earlier dwellings in this Green Belt location. In total I have been made aware of five other similar cases where replacement dwellings were not deemed materially larger. Although I do not have full details of these and they will all have their own specific circumstances, they demonstrate that the Council has previously approved a range of larger replacements in the locality, forming a relevant context for this proposal in which the present scheme should be considered.
20. The proposal would include a reduction in the building's width compared with the existing built form. The increased spacing to the sides and between buildings would enhance openness and help mitigate the increased height and volume. Furthermore, the proposed footprint, excluding external decking, would increase by less than 9%, which I consider modest and would not markedly add to the building's bulk.
21. Through the extant permitted development scheme, significant increases could be made to the footprint of the building. Compared to the current proposal, such extensions would reduce spacing around the building, would have a greater spread and physical extent of structure and would result in a more visually dominant presence on the site.
22. Compared to the previously dismissed appeal schemes, the current proposal reflects considerable reductions in volume and floorspace. Furthermore, several replacement dwellings were under construction or recently completed at the time of my visit, indicating a change in the local context since the 2023 appeal decision. These changes represent materially different circumstances to those before that previous Inspector.
23. The percentage increases in this case, with particular regard to height and volume, could be considered to exceed what might typically be considered acceptable if that were considered alone. I am also conscious that the policy wording itself does not specify a percentage increase. However, the particular circumstances in this case, lead me to give greatest weight to the characteristics of the proposed dwelling, which includes an open void, and the surrounding context and buildings which the scheme would be associated with. This leads me to conclude, that taking all the above considerations into account, the proposed dwelling would not be materially larger than that which it would replace.
24. Accordingly, the proposal would not constitute inappropriate development in the Green Belt. The question of the impact on openness is therefore not an issue, as any impact on openness is accepted as being implicitly taken into account in the relevant exception set out in the Framework. Similarly, there is no requirement to consider whether there are any very special circumstances to justify the

development. The proposal would therefore accord with policy EN2 of the DPD and criteria (d) of paragraph 154 of the Framework.

Conditions

25. The Council has suggested a number of conditions in the event of my allowing the appeal, I have considered these in accordance with the Planning Practice Guidance and the Framework. I have edited some of the suggested conditions for clarity and enforceability.
26. Time limit and plan numbers conditions are required in the interest of certainty. A materials condition is also required, however, as the details provided with the application appear appropriate, and as the Council has not raised any issue with them, a compliance condition is sufficient.
27. Conditions restricting the raising of land levels and to require the removal of materials are necessary to minimise flood risk. The scope of these have been amended to apply to the whole site, in light of the extent of flood risk and to ensure the conditions are suitably precise.
28. The submitted sustainability statement is sufficient to demonstrate compliance with the 10% renewable energy target, contained in Policy CC1 of the DPD. Given that this information has already been submitted it is unnecessary to require fresh details to be submitted again via a condition. Instead, a compliance condition is necessary to ensure that the development is constructed in line with the methods and approach contained within the statement.
29. A condition to control the removal of asbestos, which I understand to be present in the existing building, is also required, in the interests of the health of future occupiers and of the environment. This is a pre commencement condition because it relates to the construction process. Aside from the known asbestos, there is no information before me to indicate a contamination risk. As such, a separate condition in this regard is not justified.
30. Following the provision of additional information in relation to the mandatory biodiversity net gain (BNG) requirement, it is common ground between the parties that less than 25sqm would be impacted by the proposal, that there is no priority habitat onsite, and consequently the proposal would meet the de minimis exemption. This conclusion is supported by information demonstrating that a large section of zero value area would become onsite habitat, leaving a minimal area impacted. Based on this, I am satisfied that a condition to secure a biodiversity gain plan is not required.
31. The proposal does not include any changes to the existing boundary treatments, and there is no evidence before me to suggest that a change to existing is required. As such, it is not necessary or relevant to require the submission of details of boundary treatments.
32. Details of hard and soft landscaping have already been submitted. These details appear appropriate to the development proposed and to the surrounding area, further, I note the Council has not identified any issue with the details submitted. The extent of landscaping proposed is limited in scale, and as such I am satisfied that the plan numbers condition provides sufficient control. As such, a separate condition is not required.
33. Conditions restricting permitted development (PD) rights for additional openings and further extensions have been recommended. Paragraph 55 of the Framework

states that such restrictions should only be imposed where clearly justified. The Council's rationale is to protect neighbouring amenity and the character of the area. However, existing legislation already includes safeguards—particularly for development near boundaries and upper-floor side windows. In the absence of substantive evidence that these safeguards are inadequate, I find no exceptional circumstances to justify the removal of PD rights in this instance.

Conclusion

34. The proposed development accords with the development plan and material considerations do not indicate that a decision should be made other than in accordance with it. For the reasons given above, the appeal is allowed.

R Lawrence

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: LOCATION PLAN produced 08-Apr-2024, BKHS-PL-00 REV B (Location & Block plan), BKHS-PL-41 REV A (Proposed plans first & roof), BKHS-PL-42 REV A (Proposed Elevations) and BKHS-PL-40 REV A (Proposed plans ground & void under).
- 3) The external surfaces of the dwelling hereby approved shall be constructed of the materials specified on the submitted materials schedule (file name materials_schedule-775212).
- 4) There shall be no raising of existing ground levels on the site, other than in accordance with the approved details.
- 5) All spoil and building materials stored on site before and during the construction of the development hereby approved shall be removed from the site upon completion.
- 6) The development shall be constructed and thereafter maintained in accordance with the measures set out in the sustainability and energy statement (file name Sustainability_Statement-775214).
- 7) Prior to the commencement of development, including any demolition works, a refurbishment and demolition asbestos survey shall be submitted to and approved in writing by the Local Planning Authority. The survey shall include a Risk Assessment and Method Statement to include methodology and mitigation measures such to ensure that the removal and disposal of asbestos containing materials is appropriately managed.

The agreed methodology and mitigation measures shall be implemented in accordance with the approved details and a completion report (including waste disposal information) should be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the replacement dwelling hereby permitted.